



**6712-01**

**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Parts 2 and 95**

**[ET Docket No. 08-59; FCC 12-54]**

**Medical Area Body Network**

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** This document requests comment on a number of issues related to the designation of Medical Body Area Network (“MBAN”) coordinator(s) for the 2360-2390 MHz band.

Although the Commission adopted a coordination requirement in the First Report and Order that was concurrently adopted in this proceeding, it also determined that additional notice and comment was required on key aspects related to the process and criteria for designating an MBAN coordinator.

**DATES:** Comments must be filed on or before **[INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, and reply comments must be filed on or before **[INSERT DATE 65 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**FOR FURTHER INFORMATION CONTACT:** Brian Butler, Office of Engineering and Technology, (202) 418-0577, e-mail: [Brian.Butler@fcc.gov](mailto:Brian.Butler@fcc.gov), TTY (202) 418-2989.

**ADDRESSES:** You may submit comments, identified by [docket number and/or rulemaking number], by any of the following methods:

- Federal Communications Commission’s Web Site: <http://fjallfoss.fcc.gov/ecfs2/>. Follow the instructions for submitting comments.
- Mail: Brian Butler, Office of Engineering and Technology, Room 7-A125, Federal Communications Commission, 445 12<sup>th</sup> SW, Washington, DC 20554.

- People with Disabilities: Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: [FCC504@fcc.gov](mailto:FCC504@fcc.gov) or phone: 202-418-0530 or TTY: 202-418-0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the SUPPLEMENTARY INFORMATION section of this document.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Further Notice of Proposed Rule Making (FNPRM), ET Docket No. 08-59, FCC 12-54, adopted May 24, 2012, and released May 24, 2012. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY-A257), 445 12th Street, SW., Washington, DC 20554. The complete text of this document also may be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., 445 12<sup>th</sup> Street, SW., Room, CY-B402, Washington, DC 20554. The full text may also be downloaded at: [www.fcc.gov](http://www.fcc.gov).

Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). See Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121 (1998).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the

Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12<sup>th</sup> St., SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12<sup>th</sup> Street, SW, Washington DC 20554.

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

### **Summary of Further Notice of Proposed Rulemaking**

1. This FNPRM seeks comment on whether the Commission should designate one or more MBAN coordinators, the term of service for an MBAN coordinator, the qualifying criteria that should guide our selection of an MBAN coordinator, and fees to register with an MBAN coordinator and to coordinate MBAN and aeronautical mobile telemetry (AMT) operations.

2. **Number of coordinators.** General Electric Healthcare (GEHC), Philips Healthcare Systems (Philips), and Aerospace and Flight Test Radio Coordinating Council (AFTRCC) (hereinafter "the Joint Parties") collectively have asked that only one MBAN coordinator be designated, arguing that MBAN coordination should be viewed as an extension of WMTS coordination for health care facilities. The American Society for Healthcare Engineering (ASHE), which is now the WMTS coordinator, has expressed its interest in being the MBAN

coordinator as well. Philips and GEHC previously pointed out that the Commission has designated only one WMTS coordinator and one AMT coordinator, and a single MBAN coordinator would likewise simplify the coordination process, reduce costs and, expedite deployment of MBAN equipment. They assert that a process relying on multiple MBAN coordinators could delay coordination and compromise accuracy, as well as increase costs for users by, for example, requiring each coordinator to maintain its own proprietary database.

3. The Commission has proposed to select only one MBAN coordinator. Because the MBAN and AMT coordinators will have to mutually agree to coordination procedures, the Commission believes that it will be easier for a single MBAN coordinator to work with the AMT coordinator to develop these coordination procedures. Use of a single MBAN coordinator will also provide both the health care community and the AMT coordinator a single point of contact for obtaining all the information needed regarding potential frequency conflicts. As with WMTS, a single MBAN coordinator will simplify the registration process for the health care community and provide a single database of all registered MBAN equipment in the 2360-2390 MHz band. The Commission believes that using a model that is similar to WMTS will make it easier for the health care community to understand and comply with the MBAN rules that it is adopting. If we were to designate multiple coordinators, each would be expected to abide by jointly-crafted coordination procedures that specify the regular and timely sharing of information, such that each coordinator is capable of maintaining a complete registration database and providing consistent coordination results and services without undue delay. This would likely add costs that would have to be shared among the relatively small and specialized health care user community, and the Commission does not believe that the costs incurred by having multiple coordinators would spur a competitive environment that would provide sufficient benefits to offset these costs. The Commission seeks comment on this proposal.

4. **Term of Service.** The Commission proposes to require that any designated MBAN coordinator agrees to serve a ten-year term, subject to renewal by the Commission. Further, in the event that the MBAN coordinator is unable to or chooses not to complete its term, it will have to transfer its MBAN database to another entity designated by the Commission. The Commission believes that a ten-year term is appropriate for several reasons. Because MBAN equipment might not be deployed for several years,, a shorter term (*e.g.*, five years) may not provide enough time for the user communities and the coordinators to develop a working relationship to facilitate MBAN deployment while protecting AMT operations. A ten-year term also will provide a substantial time period for the Commission to evaluate the coordinator's performance. The Commission seeks comment on this proposal.

5. **Qualifying Criteria.** The Commission proposes to establish minimum qualifying criteria for selecting an MBAN coordinator. These minimum qualifying criteria are intended to ensure that a designated coordinator can successfully accomplish the functions required by our rules. The Commission proposes to require that parties interested in being designated as an MBAN coordinator demonstrate that they meet the following criteria:

- Ability to register and maintain a database of MBAN transmitter locations and operational parameters;
- Knowledge of or experience with medical wireless systems in health care facilities (*e.g.*, WMTS);
- Knowledge of or experience with AMT operations;
- Ability to calculate and measure interference potential between MBAN and AMT operations and to enter into mutually satisfactory coordination agreements with the AMT coordinator based on the requirements in § 95.1223(c);

- Ability to develop procedures to ensure that registered health care facilities operate an MBAN consistent with the requirements in § 95.1223.

6. Philips and GEHC suggested additional requirements for an MBAN coordinator which emphasize, for example, experience working with hospitals and medical device vendors; institutional knowledge of the health care industry; and having an MBAN user community as its core constituency. The Commission believes that these types of requirements may have been useful had it adopted certain elements of the joint parties' coordination plan, e.g., the transition plan requirement, but they may not be necessary under the coordination rules the Commission adopted. The Commission seeks comment on the minimum qualifying criteria that should be established for selecting an MBAN coordinator, and whether those it proposed are sufficient. The Commission also seeks comment on whether it should require that service should be provided on a non-discriminatory basis.

7. ASHE, the WMTS coordinator, has expressed an interest in being designated the MBAN coordinator. ASHE contracts with Comsearch as its technical partner in providing WMTS coordination services. When the Commission designated ASHE as the WMTS coordinator, it found that ASHE's lack of frequency coordination experience and need to contract with a third party to provide technical and administrative support, was not a significant factor arguing against ASHE's selection because the WMTS coordinator would not have to resolve frequency conflicts. Since AMT is a primary service entitled to interference protection from MBAN operations, the MBAN coordinator will have broader responsibilities than the WMTS coordinator and will have to resolve frequency conflicts with the AMT coordinator. Thus, the Commission believes it is important for us to be confident that any designated MBAN coordinator can perform the required functions under the rules and will be directly responsible to the Commission if it has to intervene in resolving any coordination disputes that may arise. The Commission seeks comment on whether third party contractual arrangements should be permitted to qualify an entity for

designation as an MBAN coordinator and, if so, what amount of disclosure of a contractual arrangement should the Commission require as part of the selection process.

8. **Fees for Service.** The Commission does not propose to prescribe fees for MBAN registration and coordination services and instead proposes to let an MBAN coordinator establish service fees. Nonetheless, the Commission recognizes that, if we choose to designate only one MBAN coordinator, fees for service will not be disciplined by competition from several coordinators. Philips and GEHC have asked that we require that an entity be “willing to operate the coordination process and MBANS database at cost, ideally on a non-profit basis.” The Commission noted that it did not prescribe any service fees for WMTS coordination, allowing the designated WMTS coordinator “to set the fee structure necessary to recoup costs.” The Commission also seeks comment on whether it should adopt any fee requirements for MBAN registration and coordination, including, for example, whether service fees should only recoup costs and how such a requirement should be evaluated, and whether service fees should be reasonable and non-discriminatory.

9. AFTRCC has established coordination service fees for FCC licensees in the aeronautical services. The Joint Parties have asked that we codify, as part of the MBAN coordination rules, a requirement that health care facilities “bear responsibility for reasonable costs incurred by the aeronautical telemetry coordinator in effecting the coordination.” The Commission seeks comment on this request. It also seeks comment on how “reasonable costs” should be evaluated, and, if it were to codify this requirement, what oversight the Commission should exercise over AMT-MBAN coordination fees. Should the Commission require that service should be provided on a non-discriminatory basis and that fees should be reasonable and non-discriminatory? The Commission also seeks comment on the procedures that would apply to health care facilities that pay these costs. For example, would a health care facility apply to AFTRCC for coordination, or would it pay these fees to the MBAN coordinator who, in turn,

would pass along the fees to AFTRCC? As discussed, AFTRCC coordinates Federal AMT operations, in conjunction with the Federal Government Area Frequency Coordinators for day-to-day scheduling of missions. Should service fees for MBAN coordination exclude costs that AFTRCC may incur for coordinating Federal AMT operations?

### **MBAN Coordinator Selection**

10. Under the Commission's rules, the Wireless Telecommunications Bureau (WTB) has delegated authority to certify frequency coordinators for the services that it administers, including the Medical Device Radiocommunications (MedRadio) Service under part 95 of the Commission's rules. The Commission proposes that, under its delegated authority, WTB would select the MBAN coordinator using the same procedures that were implemented for selecting the WMTS coordinator. The WTB would issue a public notice to announce procedures for interested parties to submit applications for consideration as an MBAN coordinator. It would issue an Order to designate the MBAN coordinator, and execute a Memorandum of Understanding with the selected coordinator that will set forth the coordinator's authority and responsibilities. The MBAN coordinator would assume its duties upon the execution of the Memorandum of Understanding. The Commission seeks comment on whether this process, which worked well for selecting the WMTS coordinator, would permit the Commission to complete the MBAN coordinator selection process in a timely and efficient manner.

### **Initial Regulatory Flexibility Certification.**

11. The Regulatory Flexibility Act of 1980, as amended (RFA),<sup>1</sup> requires that an initial regulatory flexibility analysis be prepared for notice and comment rulemaking proceedings, unless the agency certifies that "the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities."<sup>2</sup> The RFA generally defines the term "small

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<sup>1</sup> The RFA, *see* 5 U.S.C. 601-612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Public Law No. 104-121, Title II, 110 Stat. 857 (1996).

<sup>2</sup> 5 U.S.C. 605(b).



entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.”<sup>3</sup> In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act.<sup>4</sup> A “small business concern” is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).<sup>5</sup>

12. The FNPRM addresses a number of issues related to designating an MBAN coordinator for the 2360-2390 MHz band. The joint parties have asked that only one MBAN coordinator be designated. ASHE, who is now the WMTS coordinator, has expressed its interest in being the MBAN coordinator as well. Although the NPRM sought comment on coordination procedures and generated a record upon which we are able to adopt coordination requirements in the Report and Order, the NPRM did not address other issues that would guide the selection and designation of an MBAN coordinator. The Commission addressed those issues in this FNPRM. The Commission seeks comment on whether it should designate one or more MBAN coordinators, the terms of service for an MBAN coordinator, the qualifying criteria that should guide our selection of an MBAN coordinator, and fees to register with an MBAN coordinator and to coordinate MBAN and AMT operations.

13. Therefore, the Commission certifies that the proposals in this FNPRM, if adopted will not have a significant economic impact on a substantial number of small entities. If commenters believe that the proposals discussed in the FNPRM require additional RFA analysis,

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<sup>3</sup> 5 U.S.C. 601(6).

<sup>4</sup> 5 U.S.C. 601(3) (incorporating by reference the definition of “small business concern” in the Small Business Act, 15 U.S.C. 632). Pursuant to 5 U.S.C. 601(3), the statutory definition of a small business applies “unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register.”

<sup>5</sup> 15 U.S.C. 632.

they should include a discussion of these issues in their comments and additionally label them as RFA comments. The Commission will send a copy of the FNPRM, including a copy of this initial certification to the Chief Counsel for Advocacy of the SBA.<sup>6</sup>

14. Pursuant to sections 1.4(b)(1) and 1.103(a) of the Commission's rules, 47 CFR 1.4(b)(1) and 1.103(a), the Further Notice of Proposed Rulemaking IS ADOPTED and comments will be sought on these proposals.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch,  
Secretary,

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<sup>6</sup> See 5 U.S.C. 605(b).